

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

KINZIE STEUBE,

Plaintiff,

v.

Case No.: 19-CV-522

SANTANDER CONSUMER USA INC.
AND PHANTOM RECOVERY LLC,

Defendants.

**DEFENDANT PHANTOM RECOVERY LLC'S BRIEF IN SUPPORT OF ITS
MOTION FOR ENTRY OF MONEY JUDGMENT IN THE
AMOUNT OF \$2227.67 PLUS POST JUDGMENT INTEREST
AGAINST PLAINTIFF KINZIE STEUBE**

NOW COMES the Defendant Phantom Recovery LLC (hereafter "Phantom") by its attorneys Crivello Carlson, S.C. and as and for its brief in support of its Motion for Entry of Money Judgment In The Amount of \$2,227.67 together with post judgment interest in favor of Defendant Phantom Recovery LLC and against Plaintiff Kinzie Steube (hereafter "Steube") hereby submits the following.

On July 3, 2019, Plaintiff Steube filed her Complaint as against Santander Consumer USA, Inc. and Phantom Recovery LLC. In that Complaint, Plaintiff Steube made a number of allegations arising out of her loan with Santander and the repossession of her vehicle by Phantom on June 26, 2019. (Doc. #1, 7/3/19 Complaint).

Steube amended her complaint to include additional claims against Phantom on November 4, 2019, relating to discussions held and statements made during the June 26, 2020 repossession in this case. (Doc. #22, 11/4/19 Amended Complaint).

Early in the process, Phantom Recovery LLC accepted the tender of defense of Santander Consumer USA, Inc., and thus is the party that actually incurred the costs involved herein in the defense of the matter. Santander Consumer USA Inc. has thus elected to forego any entry of judgment for costs against Steube, so that Phantom Recovery LLC is the remaining prevailing defendant entitled to have the money judgement entered in its favor. (See Ehrke Affidavit para. 2)

Discovery continued in the matter, including four specific depositions. Plaintiff took the deposition of Phantom representatives Greg Langron and Daniel Davenport on 2/27/20, and Santander representative David Hemmingway on 6/9/20. Phantom and Santander took the deposition of Plaintiff Steube on 2/27/20. (Ehrke Aff. Para. 3)

In addition, in light of Plaintiff's allegations regarding statements made and discussions held during the June 26, 2020 repossession, Defendant had the audio portion of a video recording of the repossession transcribed by a certified court reporter so that the transcripts would be available to the court in future proceedings, including the anticipated Motion for Summary Judgment. (Ehrke Aff. Para. 4)

True and accurate copies of the charges incurred and paid by Defendant in this matter for the transcripts noted above are attached to the Ehrke Affidavit filed herewith, as Exhibits A-D.

On August 3, 2020, Defendants filed their Notice of Motion and Motion for Summary Judgment and all of its supporting documents. The documentation supporting the Motion for Summary Judgment included the depositions of the respective parties that had been taken, as well as the transcripts of the recordings of the June 26, 2019 repossession itself. (Docs. # 38-45)

The Court granted Defendants' Motion for Summary Judgment and dismissed this case in its Opinion and Order (Doc. #73) and issued its Judgment in a Civil Case in favor of all Defendants and against Kinzie Steube dismissing the case on December 16, 2020 (Doc. #74).

With this motion, Defendant Phantom Recovery LLC now files its bill of costs with the court in the amount of \$2,227.67 in conjunction with the affidavit of William W. Ehrke in support of those costs. As can be seen by the affidavit of William W. Ehrke, the specific costs referenced are those incurred for the depositions of David Hemmingway, Greg Langron, Daniel Davenport and Kinzie Steube, and for the transcripts of the recording of the June 26, 2020 repossession.

**DEFENDANT IS ENTITLED TO ITS COSTS
AND POST JUDGMENT INTEREST**

Federal of Civil Procedure 54 entitled "Judgment: Costs" and in particular subsection (d)(1) of the statute specifically states: "Unless a federal statute, these

rules, or a court order provides otherwise, costs—other than attorney's fees—should be allowed to the prevailing party.”

Under 28 U.S.C. Sec. 1920, the costs that can be awarded to a prevailing party include “(2) fees for printed or electronically recorded transcripts necessarily obtained for use in the case.”

There is no question that the Defendant Phantom Recovery LLC herein is a prevailing party inasmuch as this Court has dismissed all of Plaintiff's claims on the merits and with prejudice.

It is undisputed that the costs sought by Defendant Phantom Recovery LLC in the amount of \$2,227.67 were incurred in reasonable and necessary discovery done in the matter, including the deposition of the Plaintiff, the depositions of Defendants' representatives taken by the Plaintiff, and the transcripts of the recording of the repossession itself, which were relied upon significantly by the court in its Opinion and Order. (Doc. #73)

Defendant Phantom is fully entitled to judgment for these basic costs at this time and therefore respectfully requests that this Court grant its request and tax costs in the amount of \$2,267.67 individually and personally in favor of Phantom Recovery LLC and against Plaintiff Kinzie Steube.

In addition, 28 U.S.C. Sec. 1961(a) states that “interest shall be allowed on any money judgment in a civil case recovered in a district court.” Such interest “shall be computed daily to the date of payment except as provided in section 2516(b) of this title and section 1304(b) of Title 31, and shall be compounded

annually.” (28 U.S.C. Sec. 1961(b)). As a result, Defendant is also entitled to post judgment interest to be computed and calculated according to the method outlined in 28 U.S.C. Sec. 1961.

CONCLUSION

Based on the above, Defendant Phantom Recovery LLC, 2715 Autumn Lane, Janesville, WI 53546 respectfully requests that this Court enter a money judgment in the amount of \$2,227.67 together with post judgment interest to be calculated according to the method outlined in 28 U.S.C. Sec 1961, in its favor and against Plaintiff Kinzie Steube, last known address of 308 Albion Street, Edgerton, Wisconsin.

Dated this 29th day of December, 2020.

CRIVELLO CARLSON, S.C.
Attorneys for the Defendants
Santander Consumer USA, Inc. and
Phantom Recovery LLC

By: /s/ William W. Ehrke
WILLIAM W. EHRKE
State Bar No. 1005619

PO Address:
710 N. Plankinton Avenue
Suite 500
Milwaukee, WI 53203
Phone: 414-271-7722
Email: wehrke@crivellocarlson.com